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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

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at o'clock and m.m.
WALTER A. Y.H. CHIN, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CRIM. NO. 03-0127SOM-01,-02
)	
Plaintiff,)	FIRST SUPERSEDING INDICTMENT
)	[21 U.S.C. 846, 844(a) and
VS.)	841(a)(1); 18 U.S.C. 922(g)(3)]
)	
ERNEST M. ESPARZA	(01))
JOSE ANGEL AVITIA-	(02))
QUINONES,)
)	
Defendants.)	
)	

FIRST SUPERSEDING INDICTMENT

Count 1:

The Grand Jury charges that:

From a time unknown to the grand jury up through and including on or about March 8, 2003 in the District of Hawaii and elsewhere, defendants:

ERNEST M. ESPARZA (hereinafter "Esparza"),
JOSE ANGEL AVITIA-QUINONES (hereinafter "Avitia"),
and Stacey Kuamoo, also known as Stacey Bohol, the latter person not being charged as a defendant herein, and others known and

unknown to the grand jury knowingly and intentionally conspired to distribute and to possess with intent to distribute fifty (50) grams or more of methamphetamine, its salts, isomers, and salts of its isomers, a Schedule II controlled substance,

A violation of Title 21, United States Code, Section 841(a)(1).

Overt Acts:

In furtherance of this conspiracy and in order to attain the objects thereof, the following overt acts, among others, were committed in the District of Hawaii and elsewhere:

1. On or about March 7, 2003, at his residence located at 194 Kuleana Loop, Hilo, HI, Esparza accepted delivery of the following U.S. Postal Service Express Mail parcel:

One (1) U.S. Postal Service Express Mail parcel, Label #ER039506040US, addressed to "Ernesto Esparza, 194 Kuleana Lp., Hilo, HI 96720", with the sender being "Eugenio Esparza, 9415 Catawba Ave., Fontana, CA 92336" [hereinafter referred-to as "**subject parcel**"].

2. On or about March 7, 2003, Avitia drove away from 194 Kuleana Loop with the subject parcel.

3. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194 Kuleana Loop, Hilo, HI, Esparza possessed approximately \$25,030 in U.S. currency concealed in a metal can with a soldered seam.

4. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194

Kuleana Loop, Hilo, HI, Avitia possessed approximately \$25,030 in U.S. currency concealed in a metal can with a soldered seam.

5. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194 Kuleana Loop, Hilo, HI, Esparza possessed two metal cans which had been cut in half.

6. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194 Kuleana Loop, Hilo, HI, Avitia possessed two metal cans which had been cut in half.

7. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194 Kuleana Loop, Hilo, HI, Esparza possessed a soldering iron and solder.

8. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194 Kuleana Loop, Hilo, HI, Avitia possessed a soldering iron and solder.

9. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194 Kuleana Loop, Hilo, HI, Esparza possessed approximately \$11,000 in U.S. currency.

10. On or about March 8, 2003 and at earlier times during the period of this conspiracy, at his residence located at 194

Kuleana Loop, Hilo, HI, Avitia possessed approximately \$11,000 in U.S. currency.

All in violation of Title 21, United States Code, Sections 846, 841(a)(1), and 841(b)(1)(A).

Count 2:

The Grand Jury further charges that:

On or about March 7, 2003 in the District of Hawaii, defendants:

**ERNEST M. ESPARZA and
JOSE ANGEL AVITIA-QUINONES**

knowingly and intentionally attempted to possess with intent to distribute fifty (50) grams or more of methamphetamine, its salts, isomers, and salts of its isomers, a Schedule II controlled substance,

In violation of Title 21, United States Code, Sections 846, 841(a)(1), and 841(b)(1)(A), and Title 18, United States Code, Section 2.

Count 3:

The Grand Jury further charges that:

On or about March 7, 2003 in the District of Hawaii, defendant:

ERNEST M. ESPARZA,

then being an unlawful user of controlled substances, to wit:

cocaine, a Schedule II narcotic controlled substance, did possess in and affecting commerce firearms, to wit:

- (1) One (1) Makarov semi-automatic pistol, caliber 9 x 18 mm Makarov, serial #A 81 9695, and ammunition therefor, and
- (2) One (1) Model AKM-47S, semi-automatic assault rifle, 7.62 x 39 mm caliber, serial #M8501010, and ammunition therefor,

In violation of Title 18, United States Code, Sections 922(g)(3) and 924(a)(2).

Count 4:

The Grand Jury further charges that:

On or about March 7, 2003 in the District of Hawaii, defendant:

JOSE ANGEL AVITIA-QUINONES,

then being an unlawful user of controlled substances, to wit: methamphetamine, a Schedule II controlled substance, did possess in and affecting commerce firearms, to wit:

- (1) One (1) Ruger Model 85 semi-automatic pistol, 9mm Luger caliber, serial #302-16501, and ammunition therefor, and
- (2) One (1) Model AKM-47S, semi-automatic assault rifle, 7.62 x 39 mm caliber, serial #M8501010, and ammunition therefor,

In violation of Title 18, United States Code, Sections 922(g)(3) and 924(a)(2).

Count 5:

On or about March 7, 2003 in the District of Hawaii,
defendant:

ERNEST M. ESPARZA

knowingly and intentionally possessed a quantity of cocaine, a
Schedule II narcotic controlled substance,

In violation of Title 21, United States Code, Section
844(a).

Count 6:

On or about March 7, 2003 in the District of Hawaii,
defendant:

JOSE ANGEL AVITIA-QUINONES

knowingly and intentionally possessed a quantity of
methamphetamine, a Schedule II controlled substance,

In violation of Title 21, United States Code, Section

844(a).

DATED: Honolulu, Hawaii, April 30, 2003.

A TRUE BILL.

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GRAND JURY FOREPERSON

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USA v. Esparza and Avitia, USDC-Hawaii, First Superseding
Indictment.